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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,474	05/26/2000	Charles Philippe Tresser	YO999-486	9995

21254 7590 09/15/2003  
MCGINN & GIBB, PLLC  
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SUITE 200  
VIENNA, VA 22182-3817

EXAMINER
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ELISCA, PIERRE E

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 09/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/578,474

Applicant(s)  
Charles Philippe Tresser

Examiner  
Pierre E. Elisca

Art Unit  
3621



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09/05/2003
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

**Serial Number: 09/578,474**

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**Examiner Pierre Eddy Elisca**

**United States Department of Commerce**

**Patent and Trademark Office**

**Washington, D.C. 20231**

### **DETAILED ACTION**

1. This Office action is in response to Applicant's RCE, filed on 09/05/2003.
2. Claims 1-46 are pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 15, and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niwa in view of Asad et al. (U.S. Pat. No. 6,539,093).

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As per claims 1, 2, 3, 5, 15, 38, and 39-40 Niwa a method of using a personal device in conducting transactions over a network such that Applicant's third party reads on element 10, Applicant's first party reads on the customer, element 52, Applicant's second party reads on a merchant, element 62, and Applicant's step of providing the second party with information identifying said first party only as a transactional party in said electronic business transaction reads on the authorization given to the merchant by the settlement bank, element 10. Applicant's proprietary item reads on the portable device, element 50, and Applicant's information identifying the customer reads on the authorization code generated by the portable device, element 50.

Niwa fails to explicitly disclose an intermediary relationship by said third party comprises replacing an identification data about said first party OR replacing a password with key identification.

Niwa discloses a key ring organizer for an electronic business using public key infrastructure in which digital key replace end-user identification password. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the commercial transaction of Niwa by including the limitation detailed above because this would allow digital keys to be confirmed by the end-user or third party.

5. Claims 7, 8, 24, 41, 42, and 44-46 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Niwa and Henley , and further in view of Asad.

As per claims 7, 41, and 42 Niwa and Asad disclose the use of a portable device for the purpose of authenticating the user (owner of the device). Henley discloses a system (business entity), element

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16, for providing medical services from a plurality of providers (verifiers), element 83, to a user, wherein the user is required to pay for (i.e., insurance or out-of-pocket) the services and hence, must authenticate himself to the provider. It is considered that it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Niwa to include the specifics of the provider selection arrangement of Henley and use the device of Niwa for purposes of user authentication to the providers as user authentication is old and well-known to be a requirement of any type of business transaction. Although neither Niwa nor Henley specifically disclose the type of encryption used for communications between the parties, it is considered to be old and well-known that a customer will have software that will enable him to encrypt any private information (application) using the public key of the recipient (business entity) as is done using public key encryption (public signature scheme). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combined teachings of Niwa and Henley to include public key encryption for the purpose of encrypting the information passed between the parties as a matter of design choice.

Niwa fails to explicitly disclose an intermediary relationship by said third party comprises replacing an identification data about said first party OR replacing a password with key identification.

Niwa discloses a key ring organizer for an electronic business using public key infrastructure in which digital key replace end-user identification password. Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the commercial

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transaction of Niwa by including the limitation detailed above because this would allow digital keys to be confirmed by the end-user or third party.

***Conclusion***

6. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Tuesday to Friday from 6:30AM. to 5:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9768.

**Any response to this action should be mailed to:**

Commissioner of patents and Trademarks

Washington, D.C. 20231

The Official Fax Number For TC-3600 is:

**(703) 305-7687**

  
Pierre Eddy Elisca

Patent Examiner

**September 10, 2003**